

REMARKS

This amendment is responsive to the Office Action dated June 24, 2010 and the Advisory Action dated December 7, 2010. Claims 1 and 3-11 are pending. The Office Action rejected Claims 1, 3, 4, 6, 8, 9, and 11 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,300,869 to Swearingen ("Swearingen"). Claim 5 is rejected under 35 U.S.C. § 103(a) as being obvious over Swearingen. Claims 7 and 10 are objected to, but indicated as allowable if rewritten in independent form. Applicant has herein amended Claim 1. The amendment to Claim 1 serves to more clearly define the invention and overcome the rejections. No new matter has been added by this amendment. In light of the remarks presented below, Applicant requests reconsideration and allowance of all now-pending claims of the present application.

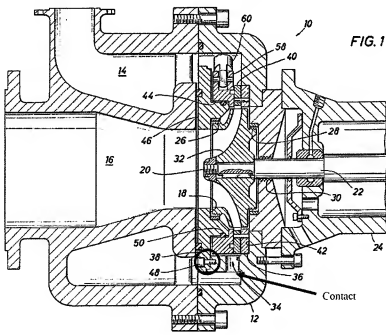
Remarks/Arguments

The invention of the present application relates to a turbocharger comprising a variable nozzle device and an exhaust housing that is mechanically and/or thermally decoupled from the variable nozzle device. In particular, independent Claim 1 recites "an exhaust housing being mechanically and/or thermally decoupled from the variable nozzle device," "wherein the peripheral ring and the outer ring are spaced from the exhaust housing, so that any contact between the exhaust housing and the peripheral ring and any contact between the exhaust housing and the outer ring is avoided at all locations." The underlined portions of Claim 1 are newly added in the amendments appearing herewith. Support for these new limitations is found at least in paragraph [0029] of the specification, which states that "any contact between the exhaust housing and the ring shaped insert 11 of the variable nozzle device is avoided." In this regard, as noted in paragraph [0021], the ring shaped insert 11 is "an integral member comprising a peripheral ring 13 and an outer ring 15." Accordingly, contact between the exhaust housing and the peripheral ring and contact between the exhaust housing and the outer ring is avoided at all locations, as recited in the presently amended claims.

These limitations are not found in Swearingen. Rather, Swearingen discloses a variable nozzle turbocharger 10 (*see e.g.*, FIG. 1.) The turbocharger 10 comprises an exhaust housing 12

in which a turbine wheel 20 is mounted on a shaft 22. An inlet 14 and a nozzle assembly 34 supply exhaust gas to the turbine wheel 20. The nozzle assembly 34 includes a stationary clamping ring 36 (the “nozzle ring” in the Office Action) and an actuator ring 38 that sandwich a plurality of nozzle blades 40 (the “vanes” in the Office Action) therebetween. The actuator ring 38 includes an annular recess 44 that receives a bearing ring 46. The Advisory Action clarifies that the Examiner considers an inner portion of the bearing ring 46 (near reference numeral 26) as meeting the limitations of the peripheral ring and an outer portion of the bearing ring as meeting the limitations of the outer ring.

Applicant respectfully submits that the cited division of the bearing ring into the peripheral ring and outer ring as described above is without support. However, in order to remove any ambiguity with respect the claims, and to clearly overcome the rejections, Applicant has amended Claim 1 as noted above to recite that both the outer ring and the peripheral ring avoid contact with the exhaust housing at all locations. Swearingen fails to teach or suggest this claimed configuration. Rather, Swearingen states that the “bearing ring 46 [is] rigidly mounted within the housing 12 by a plurality of bolts 48.” See col. 5:51-54. In this regard, the area circled below shows the bearing ring 46 directly mounted to the exhaust housing 12.



Swearingen FIG. 1

Thus, the turbocharger disclosed in Swearingen fails to disclose or suggest the turbocharger claimed herein. In particular, the above-noted contact between the exhaust housing 12 and the bearing ring 46 of Swearingen fails to meet the claimed limitations of an outer ring and a peripheral ring that avoid contact with the exhaust housing at all locations. Accordingly, Applicant respectfully submits that the limitations of currently amended independent Claim 1 are not taught or suggested by Swearingen.

CONCLUSION

In view of the foregoing amendment and remarks, Applicant respectfully submits that Claims 1 and 3-11 of the present application are now in condition for allowance. It is respectfully requested that a Notice of Allowance for all pending claims be issued in due course. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

The patentability of the sole independent claim has been argued as set forth above and thus Applicant will not take this opportunity to argue the merits of the rejection with regard to the dependent claims. However, Applicant does not concede that the dependent claims are not independently patentable and reserve the right to argue the patentability of the dependent claims at a later date if necessary.

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It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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